IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

CIVIL WRITS No. 3941 of 2004

PRATHVI RAJ
V/S
STATE & ORS.

Mr. R.S. Chaudhary, for the petitioner

Mr. O.P. Boob, AGA, for the respondents.

Date of Order : 8.2.2005

HON'BLE SHRI R P VYAS,J.

ORDER

The instant petition is directed against the order dated 11.3.2003 (Annex.5) passed by the Commissioner and Director, Agriculture, Rajasthan, Jaipur praying therein that the petitioner may be given all retiral benefits including interest @ 18%. He has also prayed that the respondentS- State may be directed to decide the appeal of the petitioner dated 29.5.2003 (Annex.6) which is pending before the Appellate Authority for quite long time.

Brief facts of the case are that the petitioner was initially appointed on the post of Field Assistant in the respondent-department on 10.9.74. He was promoted to the post of Agriculture Extension Officer in the office of District Extension Officer Mohangarh, Jaisalmer. During the course of

service, the respondent Director served a memorandum to the petitioner along with the details of charges on 21st July, 2000 (Annexure 1).

The petitioner submitted a detailed reply dated 1.11.2000 (Annex.2) to the statement of charges, denying and asserting that the charges have been levelled totally on false pretext. Meanwhile, the petitioner was suspended under the pretext of the charge sheet and transferred from Mohangarh, District Jaisalmer to Karauli on the ground of enquiry pending against him.

Thereafter, the petitioner preferred S.B.Civil Writ Petition No. 1908/2000 (Prithvi Raj Vs. State of Rajathan & ors) before this Court challenging his transfer order. A direction was sought to be given to the respondent department to transfer the petitioner in the nearby place and conclude the enquiry within a period of four months. After hearing learned counsel for the parties, this Court directed the respondent- department to transfer the petitioner at nearby place and complete the enquiry within a period of four months from the date of judgment i.e. dated 11.8.2000.

The petitioner further alleged that despite the direction of this Hon'ble Court dated 11.8.2000, the respondent-department did not complete the enquiry within the stipulated period nor sought time from this Hon'ble Court.

Be that as it may, the Enquiry Officer appointed by the respondent-Director, concluded the enquiry and submitted its report to the Director vide communication dated 31.1.2002 (Annex.4)

After receiving the enquiry report, the Joint Director, Sri Ganganagar, was appointed as Inquiry Officer, who found the petitioner party guilty for charge No.1 i.e. remaining absent from duty, without prior permission from Headquarters. The Inquiry Officer did not find the remaining charges i.e. causing loss to the government property, keeping the Government computer table with him without permission, illegally occupying the Govt. accommodation and misbehaving and quarrelling with his subordinates, proved against the petitioner.

After submitting the enquiry report by the Competent Authority, the respondent- Director, while taking into consideration the entire facts and circumstances, vide order dated 11.3.2003 (Annex.5)

reversed the conclusion of the Inquiry Officer and awarded punishment for the charges levelled against the petitioner.

The petitioner further contended that in the meantime, he was discharged from the service under the provisions of Section 53(1) of the Rajasthan Civil Services (Pension) Rules, 1996 (hereinafter referred to as the Rules of 1996) on the compulsory basis, during the pendency of the suspension and enquiry, which is not in dispute. He further alleged that neither fixation of salary was made nor any benefit of selection grade was extended to him, only with a view to keep the petitioner at bay from the retiral benefits. It is contended by the learned counsel for the petitioner that the petitioner, being aggrieved against the order dated 11.3.2003 (Annex.5), preferred an appeal on 29.5.2003 under Rule 30 of the CCA Rules, 1958 before the Secretary, Agriculture Department vide Annex.6 which is still pending.

Learned counsel for the petitioner further contended that despite the best efforts have been made by the petitioner, the Appellate Authority has not yet decided the appeal of the petitioner and no retiral benefits have been extended to him. Hence, this writ petition.

Learned counsel for the petitioner, in these circumstances, has specifically prayed that a direction must be given to the concerned Appellate Authority to decide the appeal of the petitioner at the earliest.

The present writ petition has been filed by the petitioner on 20.8.2004 and notices have already been served on the respondents, though no reply has been filed by the respondents. Mr. O.P. Boob, learned Addl. Govt. Advocate appears on behalf of the respondents has not controverted the pendency of the appeal before the Competent Authority since 29.5.2003.

It is admitted fact on record that the impugned order which has been challenged in this petition and which is also a subject matter of the appeal, is also pending before the Appellate Authority, so there is no question of any interference or quashing of order Annexure 5 in this petition, unless and until the appeal is decided by the Appellate Authority.

In this view of the matter and in the interest of justice, I deem it just and proper to direct the Appellate Authority to decide the appeal of

the petitioner dated 11.03.2003 (Annex.6) which was preferred against order dated 11.03.2003 (Annexure 5) under the provisions of CCA Rules, 1958 preferably within a period of six months from the date of receipt of a certified copy of this order, strictly in accordance with the Rules of 1958.

In the result, this writ petition is disposed of as indicated above.

(**R P VYAS**),**J.**

CK Thanvi/Anil/